

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN - 1 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Cost-Based Terminating Compensation)
For Commercial Mobile Radio)
Service Providers)

CC Docket Nos. 95-185, 96-98,
WT Docket No. 97-207

GTE COMMENTS

GTE Service Corporation ("GTE"), on behalf of its below-listed affiliates (collectively "GTE"),¹ hereby submits its comments in response to the Public Notice ("Notice") issued by the Federal Communications Commission ("FCC") on May 11, 2000.² The Notice seeks comment on a letter³ and legal memorandum⁴ filed by Sprint PCS ("Sprint") on February 2, 2000, and a subsequent white paper filed in support of

¹ GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., GTE West Coast Incorporated, Contel of the South, Inc., GTE Communications Corporation, GTE Wireless Incorporated, and GTE Information Services.

² *Comment Sought on Reciprocal Compensation for CMRS Providers*, FCC Public Notice, CC Docket Nos. 96-98, 95-185, and WT Docket No. 97-207 (rel. May 11, 2000) ("Notice").

³ Letter from Sprint Spectrum L.P., d/b/a Sprint PCS, to Thomas J. Sugrue, ("Letter") (filed Feb. 2, 2000).

⁴ *A Legal Framework for CMRS Call Termination, Cost-Based Compensation*, Memorandum attached to February 2, 2000 letter from Sprint PCS to Thomas J. Sugrue, ("Memorandum") (filed Feb. 2, 2000).

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the letter on April 7, 2000.⁵ The letter and attached documents asked the Commission to “confirm and clarify CMRS providers’ entitlement to reciprocal compensation for all additional costs of switching or delivering to mobile customers local calls that originate on another network.”⁶ Specifically, Sprint PCS asked the Commission to confirm that under the Communications Act and its implementing rules, “a CMRS provider is entitled to recover in reciprocal compensation all the additional costs it incurs in terminating local traffic originated on other networks – whether the additional cost is incurred in switching or delivering the call to the mobile customer.”⁷

The Commission has already recognized that a CMRS provider is entitled to compensation for its “additional costs” and has established a mechanism for recovery of these costs. Therefore, it is not necessary for the FCC to revisit this issue. If the Commission nonetheless addresses Sprint’s request that spectrum be considered traffic sensitive and therefore a component of the cost that is subject to reciprocal compensation, the Commission also should address reciprocal compensation for similar costs for all carriers, not just CMRS providers.

I. The Commission Already Has Established Rules that Address the Concerns Raised by Sprint PCS in its Request For Clarification.

Sprint argues that “[s]o long as CMRS providers receive in reciprocal compensation something less than their actual costs of terminating calls, CMRS

⁵ *Transport and Termination Costs in PCS Networks: An Economic Analysis*, Bridger Mitchell, Padmanabhan Srinagesh, (“White Paper”) (filed April 7, 2000).

⁶ See *Notice* at 1.

⁷ See *Letter* at 1.

carriers and their customers will continue to effectively subsidize costs that Congress has determined are appropriately paid by originating carriers and their customers.” The Commission has already concluded, however, that CMRS carriers may recover asymmetrical costs, as provided in the Commission’s *Local Competition Order* and its Rules.

Section 252 of the Act specifies that “each carrier” is entitled to recover its “additional costs” of call termination.⁸ While the Commission has established a presumption that symmetrical rates apply to reciprocal compensation, it has not foreclosed a carrier’s ability to recover costs that are in excess of the presumptive rates – i.e., the LEC’s costs for transport and termination. In its *Local Compensation Order*, the Commission concluded that

“[I]f a competing local service provider believes that its cost will be greater than that of the incumbent LEC for transport and termination, then it must submit a forward-looking economic cost study to rebut this presumptive symmetrical rate. In that case, we direct state commissions, when arbitrating interconnection arrangements, to depart from symmetrical rates only if they find that the costs of efficiently configured and operated systems are not symmetrical and justify a different compensation rate. In doing so, however, state commissions must give full and fair effect to the economic costing methodology we set forth in this order, and create a factual record, including the cost study, sufficient for purposes of review after notice and opportunity for the affected parties to participate. In the absence of such a cost study justifying a departure from the presumption of symmetrical compensation, reciprocal compensation for the transport and termination of traffic shall be based on the incumbent local exchange carrier’s cost studies.”⁹

⁸ See 47 U.S.C. § 252 (2) (a) (ii).

⁹ *First Local Competition Order*, 11 FCC Rcd 15499, 16042 ¶ 1089 (1996), *aff’d in part, vacated in part on other grounds*, *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th

Thus, the Commission adopted rules to address the conclusions reached in the *Local Competition Order*. Under Section 57.111 (b), “a state commission may establish asymmetrical rates for transport and termination of local telecommunications traffic only if the carrier other than the incumbent LEC (or the smaller of two incumbent LECs) proves to the state commission on the basis of a cost study . . . that the forward-looking costs . . . exceed the costs incurred by the incumbent LEC . . . , and, consequently, that such that a higher rate is justified.”¹⁰

Accordingly, while GTE does not oppose Sprint’s suggestion that wireless carriers should be permitted to demonstrate their own costs, a mechanism for doing so already exists. Sprint simply must submit a forward-looking cost study that identifies its costs, and, if justified, under the Act and the Commission’s Rules the company will be entitled to compensation for those costs.

II. If the Commission Determines that the Cost of Spectrum is an “Additional Cost” for CMRS Providers and Therefore a Component of the Cost Entitled to Reciprocal Compensation, Then the Commission Also Must Consider Similar Costs for All Carriers as Eligible for Reciprocal Compensation.

In its letter, Sprint requests that the Commission “identify the traffic-sensitive components utilized in delivering calls to mobile customers (e.g., mobile switches, cell sites, and radio spectrum) so as to remove future uncertainty and controversy.”¹¹ Sprint argues that spectrum should be a component of a CMRS carrier’s cost and therefore

Cir. 1997), *vacated in part on other ground, AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999)(“*Local Competition Order*”).

¹⁰ See 47 C.F.R. § 57.111(b).

¹¹ *Letter* at 4.

eligible for reciprocal compensation because spectrum is shared by more than one user and therefore a traffic-sensitive cost.

If the Commission decides to address this issue, it should do so in a technology neutral manner. The Commission has long had a policy that its rules be applied so as not to favor one type of technology over another.¹² Wireline based networks also have shared facilities that currently are not eligible for reciprocal compensation.¹³ Accordingly, if the Commission determines that the cost of spectrum is an “additional cost” for CMRS providers and therefore a component of the cost entitled to reciprocal compensation, then the Commission also must consider the cost of shared facilities for all carriers as eligible for reciprocal compensation.

III. Conclusion

Because the Commission has already recognized that a CMRS provider is entitled to compensation for its “additional costs” and has established a mechanism for recovery of these costs, it is not necessary for the FCC to revisit this issue. However, if the Commission determines that spectrum acquisition costs are a component of the

¹² See, e.g., *Federal State Joint Board on Universal Service*, Report and Order, (“*Universal Service Order*”) 12 FCC Rcd 8776, 8784 (rel. May 9, 1997).

¹³ For example, subscriber carrier equipment capacity generally is not dedicated to a specific user but is shared by a number of users. Similarly, portions of hybrid fiber/copper distribution facilities are shared by more than one user.

cost that is subject to reciprocal compensation, the Commission also should address reciprocal compensation for similar costs for all carriers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2000, I caused copies of the foregoing Comments to be delivered to the following:

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